

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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SPECIAL PUBLIC MEETING

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MONDAY

JUNE 20, 2005

The Special public Meeting of the District of Columbia Zoning Commission convened at 6:16 p.m. in the Office of Zoning Hearing Room at 441 4th Street, Northwest, Washington, D.C., Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chairperson
ANTHONY J. HOOD	Vice-Chairman
GREGORY JEFFRIES	Commissioner
JOHN G. PARSONS	Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON SCHELLIN	Office of Zoning
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OFFICE OF PLANNING STAFF PRESENT:

STEPHEN MORDFIN	Office of Planning
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D.C. ATTORNEY GENERAL'S OFFICE:

ALAN BERGSTEIN, ESQ.
JACOB RITTING, ESQ.

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This transcript constitutes the minutes from the Special Public Meeting held on June 20, 2005.

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1 P-R-O-C-E-E-D-I-N-G-S

2 6:16 p.m.

3 CHAIRPERSON MITTEN: Good evening,
4 ladies and gentlemen.

5 We're starting this evening with a
6 Special Public Meeting of the Zoning Commission of
7 the District of Columbia for Monday, June 20th,
8 2005. My name is Carol Mitten and joining me this
9 evening are Vice Chairman Anthony Hood and
10 Commissioners John Parsons and Greg Jeffries.

11 We have a brief agenda for the Special
12 Public Meeting and that's in the wall bin near the
13 door. And, Mrs. Schellin, do we have any
14 preliminary matters before we begin?

15 MRS. SCHELLIN: Just one with the
16 reference to the first case on the agenda. We have
17 received a report from the NCPC saying that we're
18 not adversely affecting Federal interests.

19 CHAIRPERSON MITTEN: Okay. Thank you.

20 So, inasmuch as I didn't sit on the
21 first two cases, Mr. Hood will take over and handle
22 those matters.

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1 Thank you.

2 VICE CHAIRMAN HOOD: Okay. Good
evening, colleagues.

4 We have in front of us Zoning Commission
Case No. 04-25. That's the Capital University Map
Amendment. We've already had proposed action.

7 Mrs. Schellin, do you have anything to
add?

9 MRS. SCHELLIN: No. Just the NCPC Report.

10 VICE CHAIRMAN HOOD: Okay. I will move
approval of 04-25. That is the Map Amendment going
from unzoned, identified as parcel number 121/29 of
Square 3663 from unzoned to the R-5-A Zone District.
And I will ask for a second.

15 COMMISSIONER JEFFRIES: Second.

16 VICE CHAIRMAN HOOD: Moved and properly
seconded. Any discussion?

18 All those in favor?

19 (AYES)

20 VICE CHAIRMAN HOOD: Any oppositions? So
awarded.

22 Staff, would you record the vote and do
we have a proxy from Mr. Hildebrand?

24 MRS. SCHELLIN: I do not have a proxy.

25 Staff would record the vote three to zero

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to two to approve final action in Case No. 04-25,
the2Map Amendment. Commissioner Hood moving,
Com~~m~~issioner Jeffries seconding, Commissioner
Par~~s~~ons in favor. Commissioner Mitten not voting,
not5having participated and Commissioner Hildebrand
not6voting, not being present.

7 VICE CHAIRMAN HOOD: Okay. Thank you.

8 Next on the agenda is Zoning Commission
Case No. 04-25. I believe this is 25A. It's
Cath~~o~~lic University - Further Processing.

11 Mrs. Schellin.

12 MRS. SCHELLIN: Nothing further.

13 VICE CHAIRMAN HOOD: Okay. Thank you.

14 You know, first when we had looked at
this, we asked that some more opposition testimony
be1p~~l~~aced in the order. I think that's been done.

17 Also, I think Commissioner Jeffries
wan~~t~~ed to know about the pavilion. The Office of
Plan~~a~~ning, I think you asked them to work it out
betw~~o~~een the Office of Planning. They came back to
the1Applicant suggesting limiting the hours of
oper~~a~~tion between 10:00 a.m. and 10:00 p.m.

23 Are you comfortable with that? Okay.
And4that's all, I think that was debatable. There
we~~r~~25e some concerns.

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1 So, with that, I will move approval of
Zoning Commission Case No. 04-25A, Catholic
University - Further Processing.

4 COMMISSIONER JEFFRIES: Second.

5 VICE CHAIRMAN HOOD: It's been moved and
seconded.

7 Let me just also add to the motion and
hoping, Commissioner Jeffries you would accept it,
that we allow the U.S. Attorney's Office to have
flexibility -- editorial changes?

11 Mr. Parsons, no problem. I just want to
add that normally on the backside.

13 Mrs. Schellin?

14 MRS. SCHELLIN: I just wanted to say one
thing just to clarify.

16 The Case No. is still Case 04-25. It's
just that the order number will be, because this is
the second portion of that same case. The order
number will be 04-25A, but it is still the same
case.

21 VICE CHAIRMAN HOOD: Okay. Okay.

22 I was trying to differentiate the two.
But anyway, thank you for making that clarification.

24 The order number will be 04-25A. The
Zoning Commission Case is 04-25.

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1 Okay. It's been moved and seconded with
also added for the friendly amendment.

3 All those in favor?

4 (AYES)

5 VICE CHAIRMAN HOOD: Any opposition? So
ordered.

7 Staff, would you record the vote.

8 MRS. SCHELLIN: Staff would record the
vote, three to zero to two to approve the further
processing portion of Case No. 04-25. Commissioner
Hood moving, Commissioner Jeffries seconding,
Commissioner Parsons in favor, Commissioner Mitten
not having participated, not voting, Commissioner
Hildebrand not present, not voting.

15 VICE CHAIRMAN HOOD: Thank you. Now, I
turn it back over to the Chair.

17 CHAIRPERSON MITTEN: Thank you, Mr. Hood.

18 The last case for our Special Public
Meeting is Case No. 05-13, which is the Sua Sponte
Review of the JBG/Louisiana LLC Project.

21 And we had taken the submission as we are
required to do from the Applicant in opposition to
our review and they also made a motion to disqualify
Commissioner Hildebrand and Commissioner Hildebrand
recused himself, so we're down to the substance of

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the1Sua Sponte.

2 And where we had left off the last time we discussed this was that I was in the process of moving that we remand the case to the BZA, and I'll expand on the reasoning for that in a minute. And, I intend to reintroduce that motion tonight.

7 I think that the issues that we discussed when we convened the last time on the subject remain. I don't think the Applicant in their opposition dealt with these things in any kind of substantive way. And so I would move that we remand the2case to the BZA and with the following direction.

14 They had a conclusion in their order. I'll have to restate this because I'm now going to ramble a little bit. This is not going to be a clear motion.

18 On page 9 of the order in Application No. 17271, the Board concludes that the extraordinary or exceptional situation or condition of the property results in practical difficulties for the Applicant. The2unique conditions of the property render full compliance with the zoning regulations unduly burdensome and economically infeasible.

25 There is nothing in the record on which

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the1BZA can base the conclusion of economic
infeasibility other than an assertion by the
Applicant, which I think is a dangerous position for
the4BZA to take. And so one of the issues on remand
would be to instruct the BZA to the extent they
intend to rely on economic infeasibility as a reason
for7granting the variance, that they actually
establish that with evidence in the record.

9 The second issue would be that there
seems to be imbedded in this case the notion that
any1impediment created by either historic issues or
other zoning conditions that impair you from being
able to use the full density that's permitted as a
matter of right, that there should be a relief valve
automaticallly and I don't believe that's true. So,
I would want them to establish, if that is in fact
their position, where in the zoning ordinance that
that8 is suggested or supported.

19 And then, thirdly, there was the issue
about the standstill agreement and that being used
as2a basis for granting the variance and I'd like
them to explore that as well.

23 So, three issues on remand would be:
Evidence in the record to the extent they intend to
rely on economic infeasibility; the notion that

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Applicants are entitled through a variance process to get full benefit of matter of right density, and; then the reliance on the standstill agreement.

4 And I'd ask for a second.

5 Okay. Then the motion fails for lack of a second. And I'd ask someone else to make a motion.

8 COMMISSIONER PARSONS: Madam Chairman, this matter was brought to us on the matter of security by the Architect of the Capitol and others. To me, that is the mission before us, that is to review that aspect of the case.

13 And I'm reminded of a situation that existed at Metropolitan Square overlooking the White House in the mid-'80s where the building was approved, not by this Commission. We didn't have any right to. It was a matter of right building. Where the Secret Service was surprised and opposed to the fact as similar circumstances that existed to the one we have here. And that was worked out with the Secret Service and the developer. That is, there are perimeter barriers, visual -- that is, I shouldn't use the word "plexiglass" but some kind of device is used to preclude anybody from firing a weapon into the area of the White House. There is

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also some kind of controls over the access to the roof. And it seems to me that that is what we should be asking.

4 The order ignores the concerns of the Architect of the Capitol, and what I would propose is that we remand this to the Board of Zoning Adjustment to take under advisement specific recommendations or conditions in the order that would deal with the security issues, such as perimeter barriers around the appropriate sides of the building and a program of limited access to the roof.

13 So, that's maybe even less articulate than your motion. But that's where I would come from on this.

16 CHAIRPERSON MITTEN: Okay. We have a motion. Is there a second?

18 VICE CHAIRMAN HOOD: If that's a motion, I wanted to comment on it, but I don't want to necessarily second it.

21 CHAIRPERSON MITTEN: Well, I guess that would be productive, if Mr. Parsons can't get a second.

24 COMMISSIONER PARSONS: Three strikes and we're out.

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1 VICE CHAIRMAN HOOD: I will say --

2 CHAIRPERSON MITTEN: You can second it
just for purposes of discussion.

4 VICE CHAIRMAN HOOD: No. Because I might
get stuck. I don't want to get stuck.

6 CHAIRPERSON MITTEN: Okay. Go ahead, if
you'd like to kind of --

8 VICE CHAIRMAN HOOD: Even though I know
it's on the table.

10 CHAIRPERSON MITTEN: Yes.

11 VICE CHAIRMAN HOOD: While I agreed in
part with my colleague Mr. Parsons about the
security issue, my concern as I stated previously is
there was an entity that came in after the case, the
way I see it, and I guess their recommendations or
their thoughts on how things should be handled was
not entered into the record.

18 My only concern is, there are other
entities that may not be on the same level as far as
Secret Service or whatever, but I'm thinking in
terms of community groups.

22 When they come down and they have
something that needs to get into the record and the
BZA has closed the case and they've made their
decision, and then we open it back up. If we're

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doing it for the Secret Service, I think we can do it for the ANCs and the civil associations and the city. And I just want to make sure that even though I may not be here, but I want to make sure that this Commission understands if we can do it for the Secret Service, we can do it for the ANC whatever in the District of Columbia or whoever, civic association, those groups that may not be on that level as far as Secret Service in protecting a major entity in the Federal Government. So, I just want to make sure that we have an understanding, and I would proceed.

13 But on the second thought, a second item I wanted to bring up is if we're going to remand that, I don't agree with everything the Chair had, but we can ask them to look at it all. That's kind of where I am.

18 I know that was a lot. That's a happy medium.

20 CHAIRPERSON MITTEN: Okay. We're working towards something, so Mr. Jeffries, why don't you just jump in here.

23 COMMISSIONER JEFFRIES: I am very sympathetic to Madam Chair's concerns about economic infeasibility and sort of the lack of any kind of

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response, particularly in the follow-up I was really hoping that there would be some mention, paragraph or two, at least somehow addressed this whole issue of economic infeasibility. So, I was very much disappointed with that, because I think that would have given me a lot more comfort to move forward.

7 I'm probably still at the place of perhaps not even doing anything, but I'm probably closer to Commissioner Parsons in this regard.

10 The concern I have about the economic infeasibility piece is that I just don't know the kinds of information that we can receive that would give us comfort. I certainly don't want developers to start putting performance in front of us and us checking returns and so forth and so on. I think that's a slippery slope. But I do wish that the Applicant had somehow addressed some of your concerns in the statement.

19 So, I am probably leaning towards moving along with Commissioner Parsons and taking a look at perhaps, you know, modifying the order to address some of the security concerns. So, I would probably second his motion.

24 CHAIRPERSON MITTEN: I need you to definitely second his motion.

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1 COMMISSIONER JEFFRIES: I will second
Commissioner Parsons' motion.

3 CHAIRPERSON MITTEN: Okay. I want to
comment on something and then ask Commissioner
Parsons a question.

6 You know, I understand your concern about
the7slippery slope of asking applicants to submit
pro8formas, but I think it's a slippier slope for
the9BZA to rely on assertions by applicants that are
unproven, especially when it comes to economics.
So,11that's why I continue to have that concern.

12 And my question for Commissioner Parsons
is,13I'm going to lead up to a question. I understand
how4it happened that we were presented with this
case5 to consider for sua sponte review. But at the
time6 when we voted on it, I don't know if I made the
motion or Commissioner Hildebrand made the motion,
but8it was not on the narrow basis of the security
issues. It was broader than that because I frankly
did9not find the issues related to security
compelling but I at that time, called out these
other12 issues. And you can ignore the rest of what I
introduced13 in my motion, but I feel really, really
strongly14 about them relying simply on an assertion
about15 economic feasibility, that there is nothing,

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nothing in the record to establish that.

2 So, I would ask you to accept as a
friendly amendment to your motion that if we're
going to remand it, that we ask them to look at that
more narrow issue than the broader issue that I had
suggested in my motion.

7 COMMISSIONER PARSONS: You're offering a
friendly amendment, I guess?

9 CHAIRPERSON MITTEN: I mean, I'm trying
to

11 COMMISSIONER PARSONS: I mean, how would
you articulate that?

13 CHAIRPERSON MITTEN: That to the --

14 COMMISSIONER PARSONS: In other words, we
didn't agree with the way you did it previously.

16 CHAIRPERSON MITTEN: Right. And I said
three things and now I'm just saying one. I'm just
saying the first issue, which is to the extent that
the BZA has relied on economic infeasibility as a
basis for granting the variance, that they reopen
the record to take testimony and evidence to
establish that and not merely rely on an assertion
by the applicant.

24 MR. BERGSTEIN: Well, can I just make one
suggestion, Madam Chair?

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1 I think it should be presented to them,
the2BZA, as a two-step question. First, to identify
what3 there is in the record. Actually, you're
find4ing that there is nothing. But to at least give
the5Board an opportunity to indicate what it is
spec6ifically in the record that they believe ties
the7assertion of uniqueness with economic
info8asibility. And then if there is nothing in the
recor9d to permit them to reopen the record, to take
any0additional evidence that would be necessary to
creat1e that connection.

12 CHAIRPERSON MITTEN: Okay. If that makes
it1anymore acceptable to Mr. Parsons.

14 COMMISSIONER JEFFRIES: Now, I see on
pag5e 8 and 9 of the Order, without the variance,
thi6s additional 50,000 square feet would be lost at
an1econ7omic loss of approximately \$7.5 million. And
I unde8rstand that that only gives one side of the
pen9ny.

20 CHAIRPERSON MITTEN: Right.

21 COMMISSIONER JEFFRIES: It doesn't let
you2set up the delta.

23 And there's also on page 8 a discussion
abo4ut the proposed garage would require 450 square
feet5 for parking space. This will result in a

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premium construction cost of \$2.5 million. It talks about a premium.

3 I mean, you know, I would argue that there has been some level of discussion around economics, but you know, again I'm sympathetic to your issue around that they could have sort of stepped up and provided a lot more support around this. But, I don't know what we expect to receive from them, short of an outright pro forma and everything else. And I'm just not interested in going down that road and making that kind of request.

13 And if someone else here can think of something else that we can get that can give you comfort, Madam Chair, that would be great.

16 CHAIRPERSON MITTEN: Well, I think that was what Mr. Bergstein's suggestion was driving at. I mean, I don't find that just saying that something costs more or saying that I don't get to maximize my density and that was worth, you know, "X" million dollars, that doesn't establish feasibility or infeasibility. Those are just numbers that impact the development.

24 So, what Mr. Bergstein had suggested is that we ask the BZA to either articulate what it is

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they relied on and maybe they'll just cite those numbers, and if it was me I still wouldn't be satisfied, or they would reopen the record and have a true sense of how one calculates feasibility.

5 I guess what I am, I guess, unwilling to accept is that it's beyond them. Because if they're going to rely on this kind of argument, just like, you know, there's traffic experts and we're not traffic experts, but we get advised by traffic experts. This is another area of expertise and if people need to have it broken down into a form that they can understand it, then they should ask for it. But you don't just go well, you know, it makes my head hurt so I'm not going to ask for anymore information.

16 COMMISSIONER JEFFRIES: You know, what I was hoping to receive from the Applicant is some discussion around, you know, the floor plates and that these floor plates might be such that they would end up fetching discounted rent. And when you consider the increased cost of development, you know, it makes it sort of a less attractive development rather than getting into discussions around actual numbers. But just giving us some ballpark projections as to, you know, how they are

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somehow impacted without really getting into putting forth pro formas. I mean, I could probably get somewhat comfortable there. But, you know, I'm fine with the suggestion. I just would like to just make certain that this process does not drag on forever with a long list of requirements from the Applicant.

7 CHAIRPERSON MITTEN: Okay. Let's go to Mr. Parsons.

9 COMMISSIONER PARSONS: So, the order is so far identified \$4½ million dollars worth of additional cost?

12 CHAIRPERSON MITTEN: Yes.

13 COMMISSIONER PARSONS: And the 50,000 square feet without it would result in a loss of 7½ million. So, are you looking for the \$3 million? Is that what this is about?

17 CHAIRPERSON MITTEN: No. No.

18 COMMISSIONER PARSONS: What are you looking for?

20 CHAIRPERSON MITTEN: Okay. The loss of \$7½ million is merely against some theoretical development that could occur, sort of absent a historic project. And also given there's a whole series of choices that the Applicant has made about designing their building that don't allow them to

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maximize the density without the height relief.
Okay? So, the \$7½ million means nothing to me
basically in terms of economic feasibility.

4 The \$2½ million premium construction cost
for the garage and then the sheeting and shoring of
\$2 million, that's \$4½ million of additional
construction costs, some of which is self-imposed
because the Applicant is over parking the project.
But you would have to say that \$4½ million of
additional costs means that this building overall
would cost more to construct than it would be worth
when you're done. That's the test for feasibility
is that no one would do it because it wouldn't be
worth what you had spent to put it there when you're
done. And there's nothing in the record
establishing that. It's just that there are some
costs that are more expensive for this site, some of
which are self-imposed. That's all we have.

19 COMMISSIONER PARSONS: Well, now you've
strayed into an area of self-imposed parking. So,
you know --

22 CHAIRPERSON MITTEN: That's true.

23 COMMISSIONER PARSONS: -- where are you
going with this?

25 CHAIRPERSON MITTEN: Well --

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1 COMMISSIONER PARSONS: You know, are you
going to be satisfied when they come back and say,
here is the cost. You'll say, well, the costs
aren't real because you don't need all this parking.
Are you going to continue?

6 CHAIRPERSON MITTEN: No. Just in you and
I talking here, I've made it pretty narrow. I would
be thrilled if they would take on the totality of
what I see wrong with this case. But I'm trying to
salvage something here.

11 COMMISSIONER JEFFRIES: Yes. But, Madam
Chair, I think what Commissioner Parsons' point is
is that once you open up Pandora's box and you start
to 14- I mean, this could go on and on. I mean,
they've put information in front of you, then you
can go, well, I don't know if that's really, you
know, the cost per square foot of structured
parking. I mean, you know, where does it end?

19 I'm just concerned. Again, that's my
point of sort of the slippery slope. Because once
you put additional information and more, sort of
granular information in front of someone, you open
it up for more discussion and more discussion.

24 And, again, I'm sympathetic, but I just
don't know how we help you out here.

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1 CHAIRPERSON MITTEN: Okay. I'm going to
stop beating the horse, because I think the horse
maybe dead. Although, I mean, we need to talk
about this in the future because this is very
important.

6 I have been on the BZA when people have
come and said that a project will be infeasible.

8 There was a case that came to us for set
down that we did not set down because the whole case
turned on economic infeasibility and we said well
what are you paying for the site, and they told us.
And we said well pay less. You know, that's what
you do. You don't go, oh I have it under contract
for a certain amount of money and that amount of
money is contingent -- I can only afford to pay it
if you give me my zoning relief. I mean, come on.

17 COMMISSIONER JEFFRIES: But, I mean, just
to say pay less. I mean, that's a rather -- I mean,
given market conditions and so forth. I mean, we
definitely want the city to be developed and we're
looking for more housing, more economic -- I mean --

22 CHAIRPERSON MITTEN: But guess --

23 COMMISSIONER JEFFRIES: -- I don't think
we can just simply say just pay less.

25 CHAIRPERSON MITTEN: But guess what

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happened in that case? They turned around,
renegotiated their price and they're building a
matter of right project.

4 COMMISSIONER JEFFRIES: Oh, so the Zoning
Commission is going to be in the position to start
to have the developers go back and renegotiate their
cases?

8 CHAIRPERSON MITTEN: This is --

9 COMMISSIONER PARSONS: We have done that
before.

11 CHAIRPERSON MITTEN: This is a core issue
because people should not presume when they buy a
piece of property that they will be granted relief
and then come and say because I paid so much
anticipating that you would give me relief, if you
don't give it to me, then I have an economic
hardship.

18 COMMISSIONER JEFFRIES: No.

19 COMMISSIONER PARSONS: We're straying,
folks.

21 CHAIRPERSON MITTEN: We are. Okay.

22 Mr. Parsons, I've asked you for
something. You can either accept it or deny it.
And at this point --

25 COMMISSIONER PARSONS: I can't accept

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your amendment.

2 CHAIRPERSON MITTEN: All right. Then I
withdraw my amendment.

4 COMMISSIONER PARSONS: I don't have a
second on my motion, so --

6 CHAIRPERSON MITTEN: You do.

7 COMMISSIONER JEFFRIES: I'll second.

8 COMMISSIONER PARSONS: Okay. Thank you.

9 CHAIRPERSON MITTEN: Okay.

10 COMMISSIONER JEFFRIES: I'll second it
again.

12 VICE CHAIRMAN HOOD: Well, Madam Chair,
before you call for the vote. I just want to make
sure. It seems like I only did the sua sponte as
Mr. Parsons said to a certain point on the security
issue. But, again, we definitely, and we're taking
in a response from somebody after everything was
closed. I just want to make sure we understand that
when the ANC group and the neighborhood group come
down and do the same thing that we take the same
consideration. MR. BERGSTEIN: I'd like to
clarify the scope of the motion.

23 It's my understanding that Mr. Parson's
motion is not to reopen the record and not to take
anything in addition to the record, unless they want

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to.1 But for the BZA to look at the record before
them and to address security concerns that Mr.
Parsons just articulated by fashioning some
additional conditions. COMMISSIONER PARSONS:
Exactly.

6 MR. BERGSTEIN: So, at this juncture,
there will be no additional submittals into the
record by anybody, unless the Board decides to
reopen the record for that purpose.

10 COMMISSIONER PARSONS: That's my intent.

11 VICE CHAIRMAN HOOD: Right. That's the
intent. But, Mr. Bergstein, did or did not Secret
Service or somebody try to get something in and was
notable to?

15 MR. BERGSTEIN: No. In fact, I'm not
aware at this point that anyone has tried. There's
been no formal motion --

18 VICE CHAIRMAN HOOD: Well, maybe it's the
Sergeant in Arms. Somebody.

20 COMMISSIONER PARSONS: The Architect of
the Capitol, and that's my concern. He didn't
respond to it.

23 VICE CHAIRMAN HOOD: Okay.

24 MR. BERGSTEIN: At this juncture, I don't
believe that either the Capitol Police Board -- the

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Capitol Police Board at this point, I believe, has requested party status in this proceeding which is probably going to be mute. But, at this juncture, it's my understanding that the Capitol Police Board, the Architect of the Capitol, neither of them has of yet, although they still may, request the BZA to reopen the record for permission to accept additional things. But at this juncture it's my understanding that that has not been requested. And there's nothing that you're doing or may do tonight that will compel that to occur.

12 If the motion is made to the BZA, they have the complete discretion whether or not to grant that motion. But that motion has not been made and the BZA has not yet ruled upon it.

16 VICE CHAIRMAN HOOD: Okay. So, it's nothing contingent. It's nothing floating out there for them to open the record and --

19 MR. BERGSTEIN: No.

20 VICE CHAIRMAN HOOD: -- making a --

21 MR. BERGSTEIN: Not at this juncture.

22 VICE CHAIRMAN HOOD: But still, I still want us to reconsider when neighborhoods come down and do the same thing.

25 Okay. Thank you.

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1 CHAIRPERSON MITTEN: Just so that you
don't think I'm being spiteful.

3 I just want you to know that I will not
be supporting your motion, but it's because --

5 COMMISSIONER PARSONS: I'm not surprised.

6 CHAIRPERSON MITTEN: But it's because
I've never felt that the security issues were the
compelling reason and I don't want to -- I don't
want to -- for me, I don't want to cheapen the sua
sponte by sort of throwing a bone to the Architect
of the Capitol for reasons that I don't think rose
to the level of granting the sua sponte in the first
place.

14 So, I just wanted to put that on the
record.

16 So, is there any further discussion?

17 All those in favor, please say aye.

18 (AYES)

19 CHAIRPERSON MITTEN: Those opposed,
please say no. No.

21 Any abstentions?

22 VICE CHAIRMAN HOOD: I'm going to
abstain.

24 CHAIRPERSON MITTEN: Okay. Mrs.
Schellin, let's record that vote for what it's

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worth.

2 MRS. SCHELLIN: Staff would record the
vote --

4 CHAIRPERSON MITTEN: Would you turn on
your microphone?

6 MRS. SCHELLIN: I'm sorry. The staff
would record the vote two to one to two to not
remand the case back to the BZA based on Mr.
Parsons' motion.

10 Again, Mr. Parsons moving, Commissioner
Jeffries seconding, Commissioner Mitten against,
Commissioner Hildebrand not present, not voting and
Commissioner Hood abstaining.

14 CHAIRPERSON MITTEN: Thank you.

15 Now, Mr. Bergstein, where does that leave
us?

17 MR. BERGSTEIN: The motion to remand
fails.

19 CHAIRPERSON MITTEN: And that's the end?

20 MR. BERGSTEIN: That would be the end.

21 CHAIRPERSON MITTEN: Okay.

22 MR. BERGSTEIN: Unless you care to -- no,
it would stand.

24 COMMISSIONER PARSONS: Want to again?

25 CHAIRPERSON MITTEN: Should I.

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1 COMMISSIONER PARSONS: No.

2 CHAIRPERSON MITTEN: Okay. We're done.

3 Thank you.

4 Okay. The Special Public Meeting is now
adjourned.

6 Do you need a break?

7 COMMISSIONER PARSONS: Go ahead.

8 CHAIRPERSON MITTEN: All right. This is
good evening. Thank you for bearing with us and
hope you found that discussion somewhat interesting.

11 (Whereupon, the Special Public Meeting
was adjourned at 6:46 p.m.)

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